

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

R. ALEXANDER ACOSTA,
SECRETARY OF LABOR,
U.S. DEPARTMENT OF LABOR,

Plaintiff,

v.

Case No. 4:18-cv-3068

RYA, INC., d/b/a EL POTRERO (Lincoln, NE),
AFJ, INC., d/b/a EL TORO MEXICAN
RESTAURANT (Hastings, NE),
AYR, INC., d/b/a EL TORO MEXICAN
RESTAURANT #2 (Grand Island, NE),
LA CACITA, INC., d/b/a EL POTRERO
(Kearney, NE), and
ALEJANDRO RODRIGUEZ, individually,

Defendants.

CONSENT JUDGMENT

Plaintiff having brought this action against Defendants, RYA, Inc., d/b/a El Potrero (Lincoln, NE), AFJ, Inc., d/b/a El Toro Mexica Restaurant (Hastings, NE), AYR, Inc., d/b/a El Toro Mexican Restaurant #2 (Grand Island, NE), La Cacita, Inc., d/b/a El Potrero (Kearney, NE), and Alejandro Rodriguez, individually, for minimum wage and overtime violations of the Fair Labor Standards Act during the time period May 1, 2015 to May 1, 2017, at Defendants' restaurant operations. Defendants having agreed to the entry of this judgment without contest pursuant to an agreement between the parties, and upon motion by the Secretary, for good cause shown:

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Defendants, RYA, Inc., d/b/a El Potrero (Lincoln, NE), AFJ, Inc., d/b/a El Toro Mexica Restaurant (Hastings, NE), AYR, Inc., d/b/a El Toro Mexican Restaurant #2 (Grand Island, NE), La Cacita, Inc., d/b/a El Potrero (Kearney, NE), its officers, agents, servants, employees, and

those persons in active concert or participation with it who receive actual notice of this judgment, and Alejandro Rodriguez, individually, (the “Defendants”) hereby are permanently enjoined and restrained from violating the provisions of 29 U.S.C. §§ 215(a)(2) and 215(a)(5) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 *et seq.*), including in any of the following manners:

(a) Defendants shall not, contrary to 29 U.S.C. §§ 206, 215(a)(2), fail to pay to each of their employees wages at rates not less than \$7.25 per hour;

(b) Defendants shall not, contrary to 29 U.S.C. §§ 207 and 215(a)(2), employ any of its employees in commerce or in the production of goods for commerce, or in its enterprise engaged in commerce or in the production of goods for commerce, for workweeks longer than 40 hours without compensating such employee for his or her employment in excess of 40 hours per workweek at a rate not less than one and one-half times the regular rate at which he or she is employed; and

(c) Defendants shall not, contrary to sections 29 U.S.C. §§211(c) and 215(a)(5) of the Act, fail to make, keep and preserve adequate and accurate records of their employees, and of the wages, hours and other conditions and practices of employment maintained by them as prescribed by the regulations issued, and from time to time amended, pursuant to section §211(c) of the Act and 29 C.F.R. §516. Defendants shall make such records available at all reasonable times to representatives of the Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that:

Defendants shall immediately post the Fair Labor Standards Act poster provided the Wage and Hour Division (WHD Publication 1088) with the Omaha Wage and Hour office contact information in break rooms at all locations owned in whole or in part by any of the Defendants.

Defendants shall not do anything to intimidate their employees into recording fewer hours than the employees actually worked, and shall instruct and encourage their employees to keep accurate accountings of their time, including hours worked in excess of 40 hours per week.

Defendants agree and acknowledge that as a result of claims made by Plaintiff in this lawsuit, Defendants RYA, Inc., d/b/a El Potrero (Lincoln, NE), AFJ, Inc., d/b/a El Toro Mexica Restaurant (Hastings, NE), AYR, Inc., d/b/a El Toro Mexican Restaurant #2 (Grand Island, NE), La Cacita, Inc., d/b/a El Potrero (Kearney, NE) will pay \$57,000 to the employees identified in Appendix A in the amounts set forth opposite their names in minimum wage and overtime compensation and liquidated damages for the period May 1, 2015 to May 1, 2017 plus one percent (1%) annual interest rate. After all payments have been made and the Judgment for money satisfied, the Secretary will file a certificate of payment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, nothing in this Judgment affects the rights of any current or former employees with respect to any claimed violations of the Act for time periods or locations other than those identified on Appendix A. Further, nothing in this Judgment precludes Plaintiff from enforcing violations of the Act against Defendants that occur after the date of this Judgment, and nothing in this Judgment shall prevent Defendants from asserting their defenses to such violations.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall bear its own costs, fees and other expenses incurred by such party in connection with any stage of this proceeding.

Dated: May 16, 2018



SENIOR UNITED STATES DISTRICT JUDGE

Entry of this judgment
is hereby consented to:

RYA, INC., d/b/a EL POTRERO (Lincoln, NE)

By Alejandro Rodriguez
Alejandro Rodriguez

AFJ, INC., d/b/a EL TORO MEXICAN RESTAURANT (Hastings, NE)

By Alejandro Rodriguez
Alejandro Rodriguez

AYR, INC., d/b/a EL TORO MEXICAN RESTAURANT#2 (Grand Island, NE)

By Alejandro Rodriguez
Alejandro Rodriguez

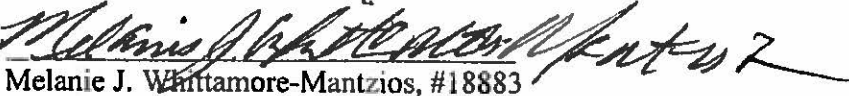
LA CACITA, INC., d/b/a EL POTRERO (Kearney, NE)

By Alejandro Rodriguez
Alejandro Rodriguez

Alejandro Rodriguez
Alejandro Rodriguez, an Individual

Approved as to Form:

WOLFE, SNOWDEN, HURD, LUERS & AHL, LLP

By 
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THE UNITED STATES SECRETARY OF LABOR